

03-05-2003



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To the Honorable Commissioner of Patents and Trademarks

102380537

its or copy thereof.

1. Name of conveying party(ies):

3-3-03

99 Restaurants, LLC

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation-State
☒ Other limited liability company

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☒ Security Agreement ☐ Change of Name
☐ Other

Execution Date: 01/27/2003

2. Name and address of receiving party(ies)

Name: Wachovia Bank, National Association, as Administrative Agent

Internal

Address:

Street Address: 201 S. College St., CP-8

City: Charlotte State: NC Zip: 28288

- ☐ Individual(s) citizenship
☒ Association national banking association
☐ General Partnership
☐ Limited Partnership
☐ Corporation-State
☐ Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 78/175615

B. Trademark Registration No.(s) 2316751

Additional number(s) attached ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Rene LeBlanc-Allman, Esq.

Internal Address:

Kennedy Covington Lobdell & Hickman, L.L.P.

Street Address: 214 N. Tryon Street, 47th FL

City: Charlotte State: NC Zip: 28202

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Betty G. Smith

Name of Person Signing

Betty G. Smith
Signature

1/27/2003

Date

13

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

03/04/2003 EXCUPER 00000000 78175615

01 FC:0521
02 FC:0522

40.00 OP
25.00 OP

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into as of this 27th day of January, 2003 by O'CHARLEY'S MANAGEMENT COMPANY, INC., a Tennessee corporation, and 99 RESTAURANTS, LLC, a Tennessee limited liability company (collectively, the "Grantor"), in favor of WACHOVIA BANK, NATIONAL ASSOCIATION, as Administrative Agent (in such capacity, the "Administrative Agent") for the ratable benefit of the banks and other financial institutions (the "Lenders") from time to time parties to the Credit Agreement, dated as of January 27, 2003 (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), by and among O'CHARLEY'S INC. (the "Borrower"), the Administrative Agent and the Lenders.

STATEMENT OF PURPOSE

The Grantor owns certain trademarks and service marks, including those trademark registrations and trademark applications listed on Schedule 1 annexed hereto, and is a party to the trademark licenses listed on Schedule 2 annexed hereto; and

Pursuant to the terms of the Collateral Agreement dated January 27, 2003 (as amended, restated, supplemented or otherwise modified from time to time, the "Collateral Agreement"), by and among the Grantor, the Borrower and certain of its Subsidiaries, the Administrative Agent and the Lenders, the Grantor has granted to the Administrative Agent a security interest in certain assets of the Grantor, including all right, title and interest of the Grantor in, to and under all Trademark Collateral (as hereinafter defined) to secure the payment of all Obligations owing by Borrower under the Credit Agreement and the other Loan Documents. All capitalized terms defined in the Credit Agreement or the Collateral Agreement and not otherwise defined herein have the respective meanings provided for in the Credit Agreement or the Collateral Agreement, as applicable.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor agrees as follows:

1. **Grant of Security Interest.** Grantor does hereby grant to the Administrative Agent a continuing security interest in all of Grantor's right, title and interest in, to and under all of the following (all of the following items or types of property being herein collectively referred to as the "Trademark Collateral"), whether now existing or hereafter created or acquired, in order to secure the Obligations referred to herein:

(a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade dress, service marks, certification marks, collective marks, logos, other source of business identifiers, prints and labels on which any of the foregoing appear or have appeared and designs owned by the Grantor (each of the foregoing items in this clause a "Trademark," and collectively, the "Trademarks"), now existing anywhere in the world or hereafter

adopted or acquired, whether currently in use or not, together with all registrations and recordings thereof and all applications filed in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in any office or agent of the United States of America (including the United States Patent and Trademark Office) or any foreign country, and including, without limitation, those referred to in Schedule 1 annexed hereto and all reissues, extensions, continuations or renewals thereof;

(b) all Trademark licenses and other agreements providing the Grantor with the right to use, or pursuant to which the Grantor provides the right to use, any of the items described in Section 1(a) (together, the “Trademark Licenses”), including each Trademark license referred to in Schedule 2 annexed hereto;

(c) all of the goodwill of the business connected with the use of, and symbolized by, each item described in Sections 1(a) or 1(b);

(d) the right to sue third parties for past, present or future infringements of any Trademark Collateral described in Section 1(a) and, to the extent applicable, Section 1(b); and

(e) all products and proceeds of, and the rights associated with, the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future (i) infringement or dilution of any Trademark or Trademark registration including, without limitation, the Trademarks and Trademark registrations referred to in Schedule 1 annexed hereto, the Trademark registrations issued with respect to the Trademark applications referred to in Schedule 1 and the trademarks licensed under any Trademark License, (ii) injury to the goodwill associated with the use of any such Trademark, Trademark registration or trademark licensed under any Trademark License, or (iii) breach or enforcement of any Trademark license.

2. **Other Security Interests.** This security interest is granted in conjunction with the security interests granted to the Administrative Agent pursuant to the Collateral Agreement. Grantor hereby acknowledges and affirms that the rights and remedies of the Administrative Agent with respect to the security interest granted herein are without prejudice to, and are in addition to, those set forth in the Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provisions of this Agreement are deemed to conflict with the Collateral Agreement, the provisions of the Collateral Agreement shall govern.

3. **Restrictions on Future Agreements.** The Grantor agrees that until all Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated, the Grantor will not, without the Administrative Agent’s prior written consent, enter into any agreement including, without limitation, any license agreement, which is inconsistent with the Grantor’s obligations under this Agreement if such action would reasonably be expected to materially adversely affect the fair market value of the Trademark Collateral or the benefits of

IN WITNESS WHEREOF, Grantor has caused this Trademark Security Agreement to be duly executed by its duly authorized officer thereunto, all as of the date first set forth above.

**O'CHARLEY'S MANAGEMENT
COMPANY, INC.,**
as Grantor

By: A. Chad Fitzhugh
Name: A. Chad Fitzhugh
Title: Secretary + Treasurer

99 RESTAURANTS, LLC,
as Grantor

By: A. Chad Fitzhugh
Name: A. Chad Fitzhugh
Title: Secretary

[Signature Pages Continue]

Agreed and Accepted as of the
21 day of January, 2003.

WACHOVIA BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: Louis K. Beasley, III
Name: LOUIS K. Beasley, III
Title: Director

[Acknowledgments Follows]

ACKNOWLEDGMENT

STATE OF TN

COUNTY OF Davidson

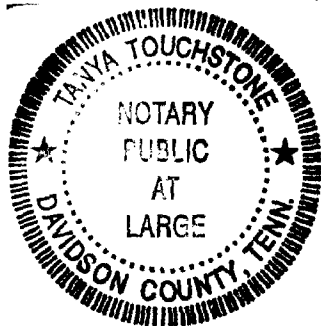
I, Tanya Touchstone, a Notary Public for said County and State, do hereby certify that Richard Smith personally appeared before me this day and stated that he is Secretary & Treasurer of O'Charley's Management Company, Inc. and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 27 day of January, 2003.

Tanya Touchstone
Notary Public

My commission expires:

7/24/04



ACKNOWLEDGMENT

STATE OF TN

COUNTY OF Davidson

I, Tanya Touchstone, a Notary Public for said County and State, do hereby certify that Chad Zitz personally appeared before me this day and stated that he is Secretary of 99 Restaurants, LLC and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this 21 day of January, 2003.

Tanya Touchstone
Notary Public

My commission expires:

7-24-04

Schedule 1
to
Trademark Security Agreement

Trademarks Owned by 99 Restaurants, LLC

Mark	Filed	Jurisdiction	Reg. Date	Reg. No.	Owner
1. THE BEST DEAL IN TOWN		Rhode Island Massachusetts Maine New York Connecticut	11/22/1994 11/22/1994 6/20/1996 6/26/1996 7/15/1996	94113 50341 19960349 S15131 9981	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC
2. BIG NINES		Massachusetts	12/15/1999	58258	99 Restaurants, LLC
3. BLOCKBUSTER		Connecticut New Hampshire Rhode Island	1/22/1998 3/9/1999 11/30/1998	20631 n/a 990101	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC
4. BLOCKBUSTER MUG		Massachusetts Maine	1/7/1999 3/25/1999	56783 19990314	99 Restaurants, LLC 99 Restaurants, LLC
5. COLOSSAL COCKTAIL		Maine Connecticut Rhode Island Massachusetts New Hampshire	3/10/1999 1/22/1998 11/30/1998 1/4/1999 3/9/1999	19990291 20632 981209 56764 n/a	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC
6. GREAT AMERICAN GRILL		Rhode Island New Hampshire Maine Massachusetts	 3/4/1994 3/22/1994 6/12/1993	9433 n/a 19940200 48214	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC
7. HORSESHOE ALE		Rhode Island (2) New Hampshire (2) Massachusetts (2)	6/12/1996 6/12/1996 6/12/1996 6/14/1996 6/14/1996	960603 960602 n/a 52793 52792	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC
8. 99	10/17/2002	United States Federal Registration		78/175,615 (Serial No.)	99 Restaurants, LLC
9. "99" LOGO IN A HORSESHOE	3/19/1999	New Hampshire United States Federal Registration	3/4/1994 2/8/2000	n/a 2,316,751	99 Restaurants, LLC 99 Restaurants, LLC
10. 99 RESTAURANT- PUB		New Hampshire	11/17/2000	364175	99 Restaurants, LLC
11. 99 RESTAURANT - PUB		New Hampshire	2/1/2000	336471	99 Restaurants, LLC
12. NINETY NINE RESTAURANT - PUB		New Hampshire	3/16/2000	341401	99 Restaurants, LLC
13. NINEWICHES		Massachusetts Connecticut Maine	6/26/2002 7/1/2002 7/18/2002	61692 21564 20030012	99 Restaurants, LLC 99 Restaurants, LLC 99 Restaurants, LLC

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	Mark	Filed	Jurisdiction	Reg. Date	Reg. No.	Owner
			Rhode Island	6/21/2002	020615	99 Restaurants, LLC
14.	STEP ABOVE TO MAKE A DIFFERENCE		Maine	10/22/1999	20000100	99 Restaurants, LLC
			New York	10/22/1999	S16800	99 Restaurants, LLC
			Massachusetts	10/21/1999	58045	99 Restaurants, LLC
			Connecticut	10/22/1999	20819	99 Restaurants, LLC
			Rhode Island	8/31/1999	991007	99 Restaurants, LLC
			New Hampshire	11/15/1999	n/a	99 Restaurants, LLC
15.	YOU'LL ALWAYS COME BACK FOR MORE.		Massachusetts	8/28/2001	60598	99 Restaurants, LLC

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Trademarks Owned by O'Charley's Management Company, Inc.

	Mark	Filed	Jurisdiction	Reg. Date	Reg. No.	Owner
1.	AT THE CORNER OF GOOD FOOD AND GOOD TIMES	9/14/2001	United States Federal Registration	6/04/2002	2,576,123	O'Charley's Management Company, Inc.
2.	CUMBERLAND FOODS	1/07/1993	United States Federal Registration	10/12/1993	1,798,352	O'Charley's Management Company, Inc.
3.	DONELSON FOODS	1/07/1993	United States Federal Registration	10/19/1993	1,799,812	O'Charley's Management Company, Inc.
4.	LEGENDARY STEAKS	4/20/1998	United States Federal Registration	1/25/2000	2,310,620	O'Charley's Management Company, Inc.
5.	MARGO'RITA	9/14/2001	United States Federal Application		76/312,289 (Serial No.)	O'Charley's Management Company, Inc.
6.	O'CHARLEY'S	1/07/1993	United States Federal Registration	8/24/1993	1,789,555	O'Charley's Management Company, Inc.
7.	O'CHARLEY'S	1/07/1993	United States Federal Registration	8/17/1993	1,788,688	O'Charley's Management Company, Inc.
8.	O'CHARLEYS (STYLIZED)	11/19/1984	United States Federal Registration	5/28/1985	1,338,554	O'Charley's Management Company, Inc.
9.	STONEY RIVER	10/04/1996	United States Federal Registration	9/23/1997	2,099,404	O'Charley's Management Company, Inc.
10.	STONEY RIVER LEGENDARY FILET	2/05/2002	United States Federal Registration	12/10/2002	2,659,197	O'Charley's Management Company, Inc.
11.	STONEY RIVER LEGENDARY STEAKS	2/05/2002	United States Federal Registration	12/10/2002	2,659,196	O'Charley's Management Company, Inc.
12.	STONEY RIVER LEGENDARY STEAKS		Georgia	3/13/1997	S-16,206	O'Charley's Management Company, Inc.

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Common Law Trademarks

NONE

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Schedule 2
to
Trademark Security Agreement

Trademark Licenses

1. Licensing Agreement dated as of December 29, 1997 pursuant to which O'Charley's Management Company, Inc. granted to O'Charley's Inc. an exclusive license to use O'CHARLEY'S (Reg. No. 1,788,688), O'CHARLEYS (Stylized Version) (Reg. No. 1,338,554), AT THE CORNER OF GOOD FOOD AND GOOD TIMES (Reg. No. 2,576,123), MARGO'RITA (Appl. No. 76/312,289) and O'TO GO & DESIGN (abandoned).
2. Trademark License Agreement dated as of August 24, 2000 pursuant to which O'Charley's Inc. granted to Purity Daries, Inc. an exclusive license to use the marks O'CHARLEYS (Reg. No. 1,338,554) and O'CHARLEY'S (Reg. No. 1,788,688), in connection with the manufacture, distribution and sale of half gallons of caramel pie ice cream.

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